

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 565

BY STATE AFFAIRS COMMITTEE

AN ACT

RELATING TO PUBLIC WRITINGS; AMENDING SECTION 9-340C, IDAHO CODE, TO LIMIT DISCLOSURE OF CERTAIN PUBLIC OFFICIAL NAME INFORMATION.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 9-340C, Idaho Code, be, and the same is hereby amended to read as follows:

9-340C. RECORDS EXEMPT FROM DISCLOSURE -- PERSONNEL RECORDS, PERSONAL INFORMATION, HEALTH RECORDS, PROFESSIONAL DISCIPLINE. The following records are exempt from disclosure:

(1) Except as provided in this subsection, all personnel records of a current or former public official other than the public official's public service or employment history, classification, pay grade and step, longevity, gross salary and salary history, status, workplace and employing agency, provided that such records shall only list the last name and first initial of the public official. All other personnel information relating to a public employee or applicant including, but not limited to, information regarding sex, race, marital status, birth date, home address and telephone number, applications, testing and scoring materials, grievances, correspondence and performance evaluations, shall not be disclosed to the public without the employee's or applicant's written consent. Names of applicants to classified or merit system positions shall not be disclosed to the public without the applicant's written consent. Disclosure of names as part of a background check is permitted. Names of the five (5) final applicants to all other positions shall be available to the public. If such group is less than five (5) finalists, then the entire list of applicants shall be available to the public. A public official or authorized representative may inspect and copy his personnel records, except for material used to screen and test for employment. Notwithstanding the provisions of this subsection, the full name of a public official may be disclosed in a writing of a public agency that is generally made available to the public.

(2) Retired employees' and retired public officials' home addresses, home telephone numbers and other financial and nonfinancial membership records; active and inactive member financial and membership records and mortgage portfolio loan documents maintained by the public employee retirement system. Financial statements prepared by retirement system staff, funding agents and custodians concerning the investment of assets of the public employee retirement system of Idaho are not considered confidential under this chapter.

(3) Information and records submitted to the Idaho state lottery for the performance of background investigations of employees, lottery retailers and major procurement contractors; audit records of lottery

1 retailers, vendors and major procurement contractors submitted to or
2 performed by the Idaho state lottery; validation and security tests of the
3 state lottery for lottery games; business records and information submitted
4 pursuant to sections 67-7412(8) and (9) and 67-7421(8) and (9), Idaho Code,
5 and such documents and information obtained and held for the purposes of
6 lottery security and investigative action as determined by lottery rules
7 unless the public interest in disclosure substantially outweighs the
8 private need for protection from public disclosure.

9 (4) Records of a personal nature as follows:

10 (a) Records of personal debt filed with a public agency or independent
11 public body corporate and politic pursuant to law;

12 (b) Personal bank records compiled by a public depositor for the
13 purpose of public funds transactions conducted pursuant to law;

14 (c) Records of ownership of financial obligations and instruments
15 of a public agency or independent public body corporate and politic,
16 such as bonds, compiled by the public agency or independent public body
17 corporate and politic pursuant to law;

18 (d) Records, with regard to the ownership of, or security interests in,
19 registered public obligations;

20 (e) Vital statistics records; and

21 (f) Military records as described in and pursuant to section 65-301,
22 Idaho Code.

23 (5) Information in an income or other tax return measured by items of
24 income or sales, which is gathered by a public agency for the purpose of
25 administering the tax, except such information to the extent disclosed in
26 a written decision of the tax commission pursuant to a taxpayer protest of
27 a deficiency determination by the tax commission, under the provisions of
28 section 63-3045B, Idaho Code.

29 (6) Records of a personal nature related directly or indirectly
30 to the application for and provision of statutory services rendered to
31 persons applying for public care for the elderly, indigent, or mentally or
32 physically handicapped, or participation in an environmental or a public
33 health study, provided the provisions of this subsection making records
34 exempt from disclosure shall not apply to the extent that such records or
35 information contained in those records are necessary for a background check
36 on an individual that is required by federal law regulating the sale of
37 firearms, guns or ammunition.

38 (7) Employment security information, except that a person may agree,
39 through written, informed consent, to waive the exemption so that a third
40 party may obtain information pertaining to the person, unless access to
41 the information by the person is restricted by subsection (3)(a), (3)(b)
42 or (3)(d) of section 9-342, Idaho Code. Notwithstanding the provisions of
43 section 9-342, Idaho Code, a person may not review identifying information
44 concerning an informant who reported to the department of labor a suspected
45 violation by the person of the employment security law, chapter 13, title 72,
46 Idaho Code, under an assurance of confidentiality. As used in this section
47 and in chapter 13, title 72, Idaho Code, "employment security information"
48 means any information descriptive of an identifiable person or persons that
49 is received by, recorded by, prepared by, furnished to or collected by the

1 department of labor or the industrial commission in the administration of
2 the employment security law.

3 (8) Any personal records, other than names, business addresses and
4 business phone numbers, such as parentage, race, religion, sex, height,
5 weight, tax identification and social security numbers, financial worth or
6 medical condition submitted to any public agency or independent public body
7 corporate and politic pursuant to a statutory requirement for licensing,
8 certification, permit or bonding.

9 (9) Unless otherwise provided by agency rule, information obtained
10 as part of an inquiry into a person's fitness to be granted or retain a
11 license, certificate, permit, privilege, commission or position, private
12 association peer review committee records authorized in title 54, Idaho
13 Code. Any agency which has records exempt from disclosure under the
14 provisions of this subsection shall annually make available a statistical
15 summary of the number and types of matters considered and their disposition.

16 (10) The records, findings, determinations and decisions of any
17 prelitigation screening panel formed under chapters 10 and 23, title 6,
18 Idaho Code.

19 (11) Complaints received by the board of medicine and investigations
20 and informal proceedings, including informal proceedings of any committee
21 of the board of medicine, pursuant to chapter 18, title 54, Idaho Code, and
22 rules adopted thereunder.

23 (12) Records of the department of health and welfare or a public health
24 district that identify a person infected with a reportable disease.

25 (13) Records of hospital care, medical records, including
26 prescriptions, drug orders, records or any other prescription information
27 that specifically identifies an individual patient, prescription records
28 maintained by the board of pharmacy under sections 37-2726 and 37-2730A,
29 Idaho Code, records of psychiatric care or treatment and professional
30 counseling records relating to an individual's condition, diagnosis, care
31 or treatment, provided the provisions of this subsection making records
32 exempt from disclosure shall not apply to the extent that such records or
33 information contained in those records are necessary for a background check
34 on an individual that is required by federal law regulating the sale of
35 firearms, guns or ammunition.

36 (14) Information collected pursuant to the directory of new hires act,
37 chapter 16, title 72, Idaho Code.

38 (15) Personal information contained in motor vehicle and driver records
39 that is exempt from disclosure under the provisions of chapter 2, title 49,
40 Idaho Code.

41 (16) Records of the financial status of prisoners pursuant to
42 subsection (2) of section 20-607, Idaho Code.

43 (17) Records of the Idaho state police or department of correction
44 received or maintained pursuant to section 19-5514, Idaho Code, relating to
45 DNA databases and databanks.

46 (18) Records of the department of health and welfare relating to a
47 survey, resurvey or complaint investigation of a licensed nursing facility
48 shall be exempt from disclosure. Such records shall, however, be subject
49 to disclosure as public records as soon as the facility in question has
50 received the report, and no later than the fourteenth day following the

1 date that department of health and welfare representatives officially exit
2 the facility pursuant to federal regulations. Provided however, that for
3 purposes of confidentiality, no record shall be released under this section
4 which specifically identifies any nursing facility resident.

5 (19) Records and information contained in the registry of immunizations
6 against childhood diseases maintained in the department of health and
7 welfare, including information disseminated to others from the registry by
8 the department of health and welfare.

9 (20) Records of the Idaho housing and finance association (IHFA)
10 relating to the following:

11 (a) Records containing personal financial, family, health or similar
12 personal information submitted to or otherwise obtained by the IHFA;

13 (b) Records submitted to or otherwise obtained by the IHFA with regard
14 to obtaining and servicing mortgage loans and all records relating to
15 the review, approval or rejection by the IHFA of said loans;

16 (c) Mortgage portfolio loan documents;

17 (d) Records of a current or former employee other than the employee's
18 duration of employment with the association, position held and location
19 of employment. This exemption from disclosure does not include the
20 contracts of employment or any remuneration, including reimbursement
21 of expenses, of the executive director, executive officers or
22 commissioners of the association. All other personnel information
23 relating to an association employee or applicant including, but not
24 limited to, information regarding sex, race, marital status, birth
25 date, home address and telephone number, applications, testing and
26 scoring materials, grievances, correspondence, retirement plan
27 information and performance evaluations, shall not be disclosed to
28 the public without the employee's or applicant's written consent.
29 An employee or authorized representative may inspect and copy that
30 employee's personnel records, except for material used to screen and
31 test for employment or material not subject to disclosure elsewhere in
32 the Idaho public records act.

33 (21) Records of the department of health and welfare related to child
34 support services in cases in which there is reasonable evidence of domestic
35 violence, as defined in chapter 63, title 39, Idaho Code, that can be used
36 to locate any individuals in the child support case except in response to a
37 court order.

38 (22) Records of the Idaho state bar lawyer assistance program pursuant
39 to chapter 49, title 54, Idaho Code, unless a participant in the program
40 authorizes the release pursuant to subsection (4) of section 54-4901, Idaho
41 Code.

42 (23) Records and information contained in the trauma registry created
43 by chapter 20, title 57, Idaho Code, together with any reports, analyses and
44 compilations created from such information and records.

45 (24) Records contained in the court files, or other records prepared as
46 part of proceedings for judicial authorization of sterilization procedures
47 pursuant to chapter 39, title 39, Idaho Code.

48 (25) The physical voter registration card on file in the county clerk's
49 office; however, a redacted copy of said card shall be made available
50 consistent with the requirements of this section. Information from the

1 voter registration card maintained in the statewide voter registration
2 database, including age, will be made available except for the voter's
3 driver's license number, date of birth and, upon showing of good cause by
4 the voter to the county clerk in consultation with the county prosecuting
5 attorney, the physical residence address of the voter. For the purposes of
6 this subsection good cause shall include the protection of life and property
7 and protection of victims of domestic violence and similar crimes.

8 (26) File numbers, passwords and information in the files of the health
9 care directive registry maintained by the secretary of state under section
10 39-4515, Idaho Code, are confidential and shall not be disclosed to any
11 person other than to the person who executed the health care directive or the
12 revocation thereof and that person's legal representatives, to the person
13 who registered the health care directive or revocation thereof, and to
14 physicians, hospitals, medical personnel, nursing homes, and other persons
15 who have been granted file number and password access to the documents within
16 that specific file.

17 (27) Records in an address confidentiality program participant's
18 file as provided for in chapter 57, title 19, Idaho Code, other than the
19 address designated by the secretary of state, except under the following
20 circumstances:

21 (a) If requested by a law enforcement agency, to the law enforcement
22 agency; or

23 (b) If directed by a court order, to a person identified in the order.